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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Amendment to the Commission's Rules)
Regarding a Plan for Sharing)
the Costs of Microwave Relocation)

WT Docket No. 95-157
RM-8643

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REPLY COMMENTS OF WIRELESS TELEPHONE COMPANY OF AMERICA

Wireless Telephone Company of America ("WTCA"), by its attorney and pursuant to Section 1.415 and 1.419 of the Commission's rules, hereby submits its reply comments in the above-captioned proceeding. WTCA is a PCS applicant participating in the Commission's C Block auction as an entrepreneur. As such, and if successful, the outcome of this rulemaking has a critical impact on WTCA's future economic viability in any market in which it becomes a PCS licensee. After review of all of parties' Opening Comments, WTCA generally supports the PCIA Opening Comments and these Reply Comments are directed to specific matters that merit the attention of small business PCS providers.

1. Small Business PCS Providers Should Be Allowed Reimbursement Schedules Commensurate With The Installment Payment Schedules Governing Their PCS License Awards

WTCA is particularly concerned that any reimbursement requirements decided in this proceeding provide for installment payment plans that effectively mirror those granted entrepreneurial applicants in the C Block auction. Thus, WTCA generally supports the opening comments of PCIA, and in regard to the installment payment mechanism, the specific comments filed by Carolina PCS I Limited Partnership and DCR Communications,

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Inc. As those comments indicate, given that the PCS auction is designed to provide small businesses that lack access to private financing a chance to participate in the PCS industry, it would be inapposite for the Commission to provide for a PCS opportunity for designated entities which includes bidding credits and installment payments and then not provide a comparable formula with regard to relocation expenses . See e.g. Fifth Memorandum and Order, 10 FCC cd 403, 458 (1004).

2. Comparable Facilities Should Not Entail A Windfall to Existing Microwave Licenses

Much has been said in the opening comments concerning the definition of comparable facilities for which an existing microwave licensee should receive reimbursement. WTCA urges that the Commission adopt a practical approach. If the existing licensee uses an analog system, then the comparable facility is an analog system. To the extent that such analog equipment has become scarce due to obsolescence and that digital facilities are obviously preferable, the incumbent licensee should be required to pick up the expense of this upgrade. The value of the analog system can be determined either strictly by comparison to existing manufacturers' prices or via appraisal when existing prices are not available.

3. Only The Actual Costs of Relocation Up To The Caps Suggested By the NPRM Should Be Compensable.

WTCA supports the caps on individual links set forth in the NPRM as well as the notion that only the costs of the links and actual relocation are reimbursable expenses. The costs of hiring outside experts and counsel to advise existing licensees on the worth of their systems vis a vis reimbursement by PCS licensees and negotiation costs should not be

reimbursable. The Commission's reimbursement criteria were not established to provide a windfall for outside contractors but simply to reimburse existing licensees on a cost basis. Any feather-bedding in this regard should be disallowed. The presence of the caps will also have a salutary affect on unreasonable premium seekers, avoiding further disputes in this regard. Likewise, their presence will avoid future problems for C block PCS licensees that may be required to share in the costs of relocation that were agreed upon by the A and B block PCS licensees who may have been inclined to agree to more generous payments than were merited merely to commence operations sooner rather than later.

4. The Voluntary Two Year Negotiation Period Should Be Replaced With A Mandatory One Year Negotiating Period And The Tax Certificate Policy Curtailed For Those Not Negotiating In Good Faith.

WTCA is very concerned that if it successfully bids and acquires a PCS license, it will face the real possibility of extortion tactics by existing microwave licensees as described in the opening comments of PCIA and CTIA. Since the C block and later D, E & F block auction winners are already suffering from severe headstart results of the interminable delays of these auctions, the maintenance of the so-called voluntary negotiation period provides little comfort that existing licensees will accept bonafide reimbursement expenses rather than make unreasonable demands that can continue without sanction.¹ In that regard, WTCA supports the Comments of Go Communications Corporation which urge a one year mandatory negotiating period; producing, at maximum, a one year wait for C

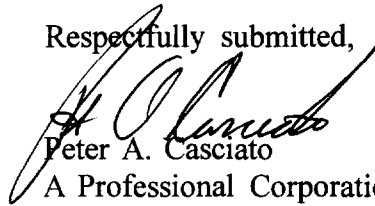
¹ One need look no further than the opening comments of the Industrial Telecommunications Association, Inc. which underscore that existing microwave licensees do not face any, and are quite pleased with the lack of, legal requirements to negotiate during the current voluntary period. Id. at 9.

Block auction winners. Similarly, to the extent that the Commission does not adopt the Go Communications proposal, WTCA supports the proposal of InterCel that, as a spur to good faith rapid negotiations, the Commission limit the availability of tax certificates to those incumbents who agree to the relocation of their facilities during the voluntary negotiation period.

Conclusion

WTCA generally supports the PCIA Comments filed in this proceeding and urges that the Commission keep in mind the serious challenges already facing C, D, E and F block PCS licensees, which will only be exacerbated by any system that allows existing microwave licensees to use economic measures or temporizing to hold up the ability of the PCS industry to provide the public with new wireless services and their attendant benefits.

Respectfully submitted,



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